

FEDERAL ELECTION COMMISSION Washington, DC 20463

MEMORANDUM	£45-	0		
	Office of the Commission Secretary			
FROM: Offic	Office of General Counsel			
DATE: Nove	November 19, 1997			
SUBJECT: MUR	MUR 4594-Memo to the Commission			
The attached is submitted as an Agenda document for the Commission Meeting of				
Open Session	_	Closed Session	_	
CIRCULATIONS		DISTRIBUTION		
SENSITIVE NON-SENSITIVE		COMPLIANCE	\boxtimes	
72 Hour TALLY VOTE		Open/Closed Letters MUR		
24 Hour TALLY VOTE	\boxtimes	DSP		
24 Hour NO OBJECTION		STATUS SHEETS		
INFORMATION		Enforcement Litigation PFESP		
		RATING SHEETS		
		AUDIT MATTERS		
		LITIGATION		
		ADVISORY OPINIONS		
		REGULATIONS		
		OTHER		

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
Longevity International Enterprises, Corp., et al)	MUR 4594
)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 3, 1997, the Commission approved a Subpoena to Produce Documents and Order to provide Written Answers ("Subpoena and Order") to Maybelle Pang, an employee of Longevity International Enterprises ("Longevity"). As discussed in the General Counsel's Report ("GC Report"), dated November 7,1997, Longevity submitted a Motion to Quash, claiming, among other things, that service of process addressed to Maybelle Pang in care of Longevity's counsel was improper and ineffective, arguing that this Office had not been informed that his firm was representing Ms Pang. As discussed in that GC Report, this Office arranged for retrieval of Ms. Pang's Subpoena and Order, and service directly on her. See GC Report, at page 1, n. 1. Ms. Pang received the Subpoena and Order on November 7, 1997. On November 17, 1997, this Office received the attached timely Motion to Quash ("Motion"). See Attachment 1. The Motion was submitted by counsel for Longevity, the same counsel who had previously refused service on behalf of Ms. Pang. Because the Motion raises the same

¹ Immediately after receiving Ms. Pang's Motion to Quash, this Office telephoned counsel and informed him as to the necessity of Ms. Pang expeditiously transmitting a written designation of counsel form to the Commission. A form was faxed to him and this Office expects to receive it back shortly.

arguments already reviewed and rejected by the Commission at the Executive Session on November 12th, this Office recommends that such Motion be denied.

II. <u>DISCUSSION</u>

The Motion submitted on behalf of Ms. Pang contains precisely the same arguments as the Motion that the Commission denied on November 12th. In fact, the language in this Motion is nearly identical to that of the prior Motion. Specifically, counsel argues that the statute of limitations at Section 2462 bars this matter, that the information sought by the Subpoena and Order is not relevant, and that the discovery is burdensome and oppressive. Attachment 1 at 1-3. As set forth in the GC Report of November 7th, this matter includes activity which occurred within the past five years and thus which the Commission would not be barred from seeking a civil penalty. In addition, the Commission may be able to obtain injunctive relief with respect to violations that occurred prior to the five year time-frame and it is unclear whether Section 2462 would even apply to investigations. See GC Report at pages 2-3.

Also as discussed in the prior GC Report, the information sought through the Subpoena and Order are relevant to the purpose of the investigation, and clearly meet the requirements of *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950). Regarding counsel's claim of burdensomeness, as with Longevity, this Office will make every effort to negotiate compliance. This Office, therefore, recommends that the Commission deny the Motion to Quash. Should contingent suit authority be necessary for Ms. Pang, this Office will submit such recommendation at that time.

III. RECOMMENDATIONS

- 1. Deny the Motion to Quash of Maybelle Pang.
- 2. Approve the appropriate letter.

Lawrence M. Noble General Counsel

BY:

Lois G. Lerner

Associate General Counsel

Attachment:

1. Motion to Quash

Staff Assigned: Nancy Bell

Xavier McDonnell